

MAR 6 1950

HAROLD B. WILLEY, Clerk

IN THE
Supreme Court of the United States
OCTOBER TERM, 1955

No. [REDACTED] 30

Kings County Clerk's Index No. 8700, Year 1951

In the Matter of the

Foreclosure of Tax Liens pursuant to Title D of Chapter 17 of the
Administrative Code of The City of New York,**LIST OF DELINQUENT TAXES**

Sections 10, 11, 12 and 13

Borough of Brooklyn, Action No. 4

Serial No.	Section	Block	Lot
887	12	3831	12

Queens County Clerk's Index No. 3000, Year 1950

In the Matter of the

Foreclosure of Tax Liens pursuant to Title D of Chapter 17 of the
Administrative Code of The City of New York,**LIST OF DELINQUENT TAXES**

Sections 1 and 2

Borough of Queens, Action No. 1

Serial No.	Section	Block	Lot
83	1	78	9

THE CITY OF NEW YORK,

Appellee,

GERALD D. NELSON, GERALDINE D. N. ACKER and GERTRUDE N. FITZPATRICK,
as Successor Trustees under the Will of William Nelson, deceased, and
HELEN D. MÖLLER,

Appellants.

ON APPEAL FROM THE COURT OF APPEALS
OF THE STATE OF NEW YORK

APPELLANTS' REPLY TO MOTION TO DISMISS

WILLIAM P. JONES
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New York 36, N. Y.
Counsel for Appellants.

IN THE
Supreme Court of the United States

OCTOBER TERM, 1955.

No. 636

Kings County Clerk's Index No. 8700, Year 1951

In the Matter of the

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Administrative Code of The City of New York.

LIST OF DELINQUENT TAXES

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Queens County Clerk's Index No. 3000, Year. 1950

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(References to Record are by Folio No.)

1. Re: Appellee's argument that the appeal does not present substantial questions.

New York City's *In Rem* foreclosure statute, Title D of its administrative code, has never been held constitutional, nor has its prototype, Title 3 of the New York State Tax Law, notwithstanding appellee's statement at page 6 of its motion. This Court denied certiorari in *City of New Rochelle v. Echo Bay Waterfront Corp.*, 326 U. S. 720, and *Lynbrook Gardens v. Ullman*, 322 U. S. 742. The denial of certiorari does not indicate that this Court considered or passed on the constitutional questions (*United States v. Carver*, 260 U. S. 482).

The doubt overhanging the constitutionality of the New York *In Rem* statutes is even more real today than when the *Lynbrook* case was decided. The constitutionality of the State *In Rem* law is now to be tested in this Court as applied to the particular facts in *Covey, Committee of Brainard v. Town of Somers*, docket No. 380 ("probable jurisdiction" noted by order of this Court dated November 7, 1955). The appeal at bar would test the constitutionality of the companion City *In Rem* law, as applied to the facts of this case.

2. Re: Appellee's argument that a taxpayer has no vested right in a particular method of tax collection.

Where a State (or subdivision thereof) distorts the legitimate purpose of any law to accomplish an improper objective as was done in this case (R. 87-266)

and thereby unjustly deprives a person of his property that person's rights as protected by the Fourteenth Amendment to the Federal Constitution have been violated (*Yick Wo v. Hopkins*, 118 U. S. 356).

The motion to dismiss the appeal should be denied.

Respectfully submitted,

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